

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

GPM INDUSTRIAL INC.
a Florida corporation,

CASE NO.:16-CV-01129

Plaintiff,
vs.

PDVSA SERVICES, INC., a Delaware
Corporation, and BARIVEN, S.A.
d/b/a BARIVEN CORP, a foreign corporation.

Defendants.

**PLAINTIFF’S UNOPPOSED MOTION FOR LEAVE OF COURT TO FILE REPLY TO
DEFENDANT PDVSA’S RESPONSE [D.E. 66] TO PLAINTIFF’S MOTION FOR
SUMMARY JUDGMENT [D.E. 53] OUT OF TIME**

Plaintiff, GPM INDUSTRIAL INC., a Florida corporation (“Plaintiff” or “GPM”), by undersigned counsel files this Unopposed Motion for Leave of Court to File Reply to Defendant PDVSA, Inc.’s Response [D.E. 66] to Plaintiff’s Motion for Summary Judgment [D.E. 53] Out of Time, and hereby states as follows:

1. On September 11, 2019, this Court granted Plaintiff’s Motion for Summary Judgment [D.E. 53, D.E. 64].
2. On September 12, 2019, Defendant PDVSA filed its Motion to Set Aside this Court’s Order granting Plaintiff’s Motion for Summary Judgment [D.E. 65].
3. Yesterday afternoon, on October 31, 2019, this Court entered an Order granting Defendant’s Motion to Set Aside [D.E. 67].
4. Undersigned counsel, unfortunately, did not realize until yesterday that Defendant had filed its Motion to Set Aside [D.E. 65] or a late-filed Response to Plaintiff’s Motion for Summary Judgment [D.E. 66], as the copies served via electronic filing e-mail were in

undersigned counsel's spam folder. Said documents were filed by Defendant on September 12, 2019.

5. Significantly, undersigned counsel was also out of the country on vacation from September 10, 2019 through September 25, 2019, and therefore unable to regularly check the docket or filter through spam e-mails. Moreover, local counsel for Plaintiff inadvertently assumed that undersigned counsel had in fact seen the two September 12th docket entries [D.E. 65, 66], and therefore did not prepare a Reply to the Response to Plaintiff's Motion for Summary Judgment either.
6. Upon seeing this Court's Order entered yesterday, Plaintiff's counsel was made aware of D.E. 65 and D.E. 66, and immediately contacted opposing counsel and his office. Counsel for Defendant PDVSA advised undersigned Plaintiff's counsel that he has no objection to the late filing of a Reply.
7. As both lead and local counsel for Plaintiff are laboring under particularly high-volume workloads, Plaintiff's counsel requests a three-week extension of time to reply to Defendants' Response to Plaintiff's Motion for Summary Judgment.
8. Plaintiff's undersigned counsel sincerely regrets the miscommunication and errors that lead to the filing of this motion. In light of the fact that Defendant's counsel is not opposed to this motion, undersigned counsel respectfully requests that the three-week extension be granted.
9. Granting this motion will not create any delay or unduly prejudice either party.

Dated on November 1, 2019.

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF
GPM INDUSTRIAL, INC.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this instrument has been forwarded to all known parties of record as indicated below, in accordance with the Federal Rules of Civil Procedure on this 1st day of November 2019.

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In the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notice of Electronic Filing.

s/Caldwell Fletcher
Caldwell Fletcher